



JOSE McKINNEY & EVANS LLP

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AF/3611

JFW

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Group: 3611 }
Atty. Docket: 8266-0592 }
Applicants: Ruschke et al. }
Invention: MOTORIZED PROPULSION }
SYSTEM FOR A BED }
Serial No.: 09/853,802 }
Filed: May 11, 2001 }
Examiner: Luby, Matthew D. }

Certificate Under 37 C.F.R. § 1.8(a)

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

on July 22, 2004

Brenda Vandever
Brenda Vandever

Dated: July 22, 2004

NOTICE OF APPEAL

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicants hereby appeal to the Board of Patent Appeals and Interferences from the Final Office Action mailed April 22, 2004 ("Final Action"), which finally rejected claims 8-10, 12-22, 26, 29, and 34-43 of the above-identified application, allowed claims 11, 30-33, 44, and 45, and indicates claims 23-25, 27, and 28 as being withdrawn from consideration.


Applicants respectfully submit that no fee is due with this Notice of Appeal because in response to an earlier filed appeal in the above-identified application, the Examiner re-opened prosecution prior to any decision by the Board of Patent Appeals and Interferences. See MPEP §1208.02. Applicants previously filed a Notice of Appeal on June 9, 2003 along with the appropriate fee and an Appeal Brief on July 23, 2003 along with the appropriate fee. In response to the Appeal Brief, the Examiner re-opened prosecution in the above-identified application, eventually resulting in the Examiner on

April 22, 2004 issuing the Final Action. As such, Applicants submit that according to MPEP §1208.02 the fees paid in connection with the Notice of Appeal mailed June 9, 2003 may be applied to this Notice of Appeal.

Applicants respectfully request that any shortages and fees be charged or any overpayments and fees be credited to the deposit account of Bose McKinney & Evans LLC, deposit account no. 02-3223. A duplicate copy of this paper is being submitted to facilitate any deposit account charges or credits that may be necessary.

Respectfully submitted,

BOSE McKINNEY & EVANS LLP


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Reg. No. 42,884

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25267

PATENT TRADEMARK OFFICE

2700 First Indiana Plaza
135 North Pennsylvania Street
Indianapolis, Indiana 46204

PATENT APPLICATION

Applicant: Ruschke et al.
Serial No.: 09/853,802
Filing Date: May 11, 2001
Title: MOTORIZED PROPULSION SYSTEM FOR A BED
Group: 3611 Examiner: Luby, Matthew D.
Attorney Docket No.: 8266-0592



Certificate Under 37 C.F.R. 1.8(a)

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On July 22, 2004

Brenda Vandever
Brenda Vandever

Dated: July 22, 2004

COMMISSIONER FOR PATENTS

P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Transmitted herewith is a Notice of Appeal in the above-identified application:

The fee has been calculated as shown below:

_____ An Extension of Time for _____ month(s) is hereby requested
under 37 C.F.R. 1.136(a). The required fee for filing this extension is: _____

 X Notice of Appeal. The required fee for filing the Notice is: _____

\$0*

TOTAL FEE FOR THIS AMENDMENT

_____ A check in the amount of \$ _____ to cover the total fee for this
amendment is attached.

The Commissioner is hereby authorized to charge any filing fees under 37 C.F.R. 1.16 or processing fees under 37 C.F.R. 1.17 which may be required during the prosecution of this application, or credit of any overpayment, to Bose McKinney & Evans LLP's Deposit Account No. 02-3223. A duplicate copy of this sheet is enclosed.

William S. Meyers
Attorney of Record
Printed Name: William S. Meyers
Registration No.: 42,884

* See second paragraph on the Notice of Appeal filed herewith, for explanation.